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TAGS: EINV EFIN ETRD PGOV KTDB OPIC USTR MD
SUBJECT: MOLDOVA 2008 INVESTMENT CLIMATE STATEMENT

REF: 07 STATE 158802

¶1. Embassy Chisinau submits the 2008 Investment Climate Statement in response to reftel.

Openness to Foreign Investment

¶2. Moldova continues to take steps toward developing a stronger economy, reforming a cumbersome regulatory framework, combating corruption and adopting reforms aimed at improving the business climate. After a prolonged recession, the economy rebounded in 2000, GDP grew and inflation decreased. Moldova, which is consistently ranked as the poorest country in Europe, relies heavily on investments, foreign trade and remittances sent by Moldovans working abroad for economic growth. Recent years have seen an increase in foreign direct investment (FDI) as investors take advantage of the eastward expansion of the European Union (EU), which now borders Moldova following the January 1, 2007, accession of Romania. The Government of Moldova (GOM) has made efforts to tackle some obstacles to investment, such as corruption and red tape. Furthermore, Moldova has declared European integration as a strategic objective. The country signed an Action Plan with the EU that provides a roadmap for democratic and economic reforms and the harmonization of Moldovan laws and regulations with European standards. Moldova expects to sign a new collaborative document with the EU when the current Action Plan expires in February 2008.

¶3. As a country with a small market, Moldova benefits from liberalized trade and investment and wants to promote the export of its goods and services. Moldova has been a member of the WTO since 2001 and has signed free trade agreements with the countries of the former Soviet Union (CIS) and Southeast Europe. In December 2006, Moldova joined the Central European Free Trade Agreement (CEFTA). Enjoying an extended generalized system of preferences (GSP-plus) from the EU, starting in 2008 the EU will unilaterally offer Moldova an asymmetric free trade regime, expanding the access of Moldovan goods to EU markets.

¶4. The GOM has created an adequate legal base, including favorable tax treatment for investors. Under Moldovan law, foreign companies enjoy the same treatment as local companies (national treatment principle). The GOM views investments as vital for sustainable economic growth and poverty reduction. However, the amount of FDI is far below the country's needs. In attracting FDI, the GOM emphasizes strategic investments that can ensure the transfer of new technologies, know-how, efficient management, and access to new foreign markets. The GOM prioritizes investments based on the

following criteria: competitiveness and potential for penetration of export markets; potential for import substitution; efficiency through higher added value; sectoral diversification, especially through the advantages derived from the export service sector; and possible multiplier effects.

¶5. Annual foreign direct investment (FDI) inflow to Moldova slowed in 1999, primarily because of the 1998 Russian financial crisis that negatively affected Moldova's economy, and also because of a break in IMF and World Bank financial support in ¶1999. Moldova's annual FDI inflow increased in 2002, reaching USD 167.6 million. In 2003, however, FDI inflows amounted to just USD 98.5 million, a sharp decrease from the previous year, but characteristic of overall FDI inflows into Central and Eastern Europe. The lower 2003 figure was also the result of fewer GOM privatizations and the perceived deterioration of the business climate. Since 2004, FDI inflows have increased steadily. Moldova has benefited from the eastward movement of companies relocating operations in countries neighboring new EU members. In 2006, FDI reached USD 368.12 million, the highest FDI figure since independence. In the first six months of 2007, FDI amounted to USD 200.5 million. Recent years have seen several large investments by Germany's Metro Cash & Carry, France's Societe Generale, Austria's Grawe insurance company, Austria's Raiffeisen Investment, The Netherlands' Easeur Holding B.V., Italy's Veneto Banca, and U.S. investment fund NCH Capital.

¶6. The GOM describes its vision for economic and social development as a move from a "classical" to a "knowledge-based, new" economy. The new vision is based on the hope of promoting a liberal and friendly business climate, proactive trade regimes, a stimulatory tax regime, uniform geographic distribution of the development of economic and technical infrastructure, and macroeconomic and political stability. American investments in Moldova are primarily in the wine and food industry, cosmetics, telecommunications, banking and real estate.

¶7. Despite the GOM's efforts to lower tax rates, strengthen tax administration, increase transparency and simplify business regulations, decision-making remains opaque and the application of regulations inconsistent. On occasion, government officials interfere in business decisions in favor of a protected individual, use governmental powers to pressure businesses for personal or political gain, and selectively apply regulations. Since the judicial system remains weak, recourse to the courts does not guarantee citizens and foreign investors an impartial ruling on alleged governmental misdeeds.

¶8. In May 2004, the GOM approved the Economic Growth and Poverty Reduction Strategy (EGPRS), which established a policy framework for Moldova's sustainable development in the medium term from 2004 to ¶2006. In 2006, the GOM extended the EGPRS to 2007. Both the World Bank and the International Monetary Fund (IMF) support the implementation of the EGPRS. Together with the EU-Moldova Action Plan signed in February 2005 and the GOM program "Modernization of the Country, Well-being of the People," approved in April 2005, the EGPRS guided Moldova's economic development in recent years. Starting in 2008, the GOM will consolidate its development strategies into an umbrella document - the National Development Plan (NDP) - which prioritizes the GOM's policies for 2008-2011. Seeking to improve living standards, the NDP is based on five basic pillars: consolidation of the rule of law, Transnistrian conflict resolution, competitiveness enhancement, human development and regional development. Attracting foreign direct investment is key to enhancing the economy's competitiveness. In 2006, after a five-year intermission, the GOM resumed financial relations with the IMF by signing a Memorandum of Economic and Financial Policies that includes criteria for the improvement of macroeconomic indicators, infrastructure development and better state property management. The country is eligible for project funding from the Millennium Challenge Corporation (MCC) and the GOM is currently developing a compact proposal. Once implemented, MCC compact projects should make a significant impact on economic development. The MCC's current Threshold Country Program focuses on supporting Moldova's anti-corruption efforts.

¶9. The Constitution of the Republic of Moldova guarantees the inviolability of investments by all natural and legal entities,

including foreigners. Key constitutional principles include the supremacy of international law, a market economy, private property, provisions against unjust expropriation, provisions against confiscation of property, and separation of powers among government branches. The Constitution provides for an independent judiciary; however, government interference and corruption remain problems in the application of laws and regulations and in the impartiality of the courts.

¶10. Current investment legislation is based on nondiscrimination between foreign and local investors. Moldovan law ensures full and permanent security and protection of all investments, regardless of their form, though application of the law remains spotty. There are no economic or industrial strategies that have a discriminatory effect on foreign-owned investors in Moldova, and no limits on foreign ownership or control, except in the right to purchase and sell agricultural and forest land, which is restricted to Moldovans.

¶11. International treaties and Moldovan law regulate business activity, including foreign investments. Such laws include, but are not limited to, the Civil Code, the Law on Property, the Law on Investment in Entrepreneurship, the Law on Entrepreneurship and Enterprises, the Law on Joint Stock Companies, the Law on Small Business Support, the Law on Financial Institutions, the Law on Franchising, the Tax Code, the Customs Code, the Law on Licensing Certain Activities, and the Law on Insolvency.

¶12. The Law on Investment in Entrepreneurship came into effect on April 23, 2004, superseding the previous Law on Foreign Investment. It was designed to be compatible with European legislative standards and defines types of local and foreign investment. It also provides guarantees for the respect of investors' rights, non-application of expropriation or actions similar to expropriation, and for payment of damages in the event investors' rights are violated.

¶13. There is no screening of foreign investment in Moldova and legislation permits 100 percent foreign ownership in companies. By statute, special forms of legal organizations and certain activities require a minimum of capital to be invested (e.g., Moldovan Leu (MDL) 5,400 for limited liability companies, MDL 20,000 for joint stock companies, MDL 15 million for insurance companies and MDL 50 million for banks).

¶14. The Law on Investment in Entrepreneurship permits investment in all sectors of the economy. Certain activities require a business license.

¶15. The Law on Entrepreneurship and Enterprises states that only state enterprises are permitted to participate in the following activities:

- Some types of human and animal medical research;
- Manufacture of orders and medals;
- Production of symbols verifying payment of state taxes and fees;
- Postal services (except express mail) and production of postage stamps;
- Sale and production of combat and special military technical equipment, explosives (except gun powder) and any weapons;
- State registry, tracking and technical inventory of real estate, restoration of ownership titles and administration of real estate;
- Printing and minting of currency and printing of state securities; and
- Certain scientific activities.

¶16. The GOM launched the first privatization process in 1994. It has adopted three different privatization programs since that time, including privatization via National Patrimonial Bonds (foreigners were not allowed to participate); via cash transactions for both locals and foreigners; and via a program which involved only cash privatization. The third program began in 1997-1998 and was extended to 1999-2000. The program was later extended with some modifications until the end of 2006. Foreign investors have successfully participated in these privatizations. In 2007, Parliament passed a new privatization law, introducing a new plan for privatizing and managing state-owned assets with a priority on economic efficiency. The law has a list of assets not subject to privatization. The GOM also adopted regulations on the

privatization of state-owned non-agricultural land through commercial tenders. A list of assets subject to privatization has been approved.

¶17. The government has privatized most state-owned enterprises, and some sectors of the economy are almost entirely in private hands. However, some large enterprises are still controlled by the government and their privatization has been either postponed indefinitely or abandoned altogether. These are the two northern electrical distribution companies, the Chisinau heating companies, the fixed-line telephone operator Moldtelecom, state airline Air Moldova and majority state-owned bank Banca de Economii. Recent privatization efforts have been insignificant, consisting mainly in the sale of residual government shares in companies originally sold during the mass privatizations of the 1990s.

¶18. The Law on Investment in Entrepreneurship prohibits discrimination of investments based on citizenship, domicile, residence, place of registration, place of activity, state of origin or any other grounds. The law provides for equitable and level-field conditions for all investors. It rules out discriminatory measures hindering the management, operation, maintenance, utilization, acquisition, extension or disposal of investments. Local companies and foreigners are treated similarly with regard to licensing, approval, and procurement. In recent years, the GOM made significant efforts to streamline business registration. In the business registration procedure, the GOM simplified document submissions by implementing a "one-window" approach. This process reduced the number of documents and days necessary for business registration. Further simplification of registration procedures is expected with the implementation of on-line business registration. Limited on-line business registration services were introduced in 2006 and 2007. In the business licensing procedure, the government simplified the process in 2002 by establishing one authority in charge of business licensing -- the Licensing Chamber -- and by reducing the number of business activities that require licensing. The GOM plans to streamline the permit process for entrepreneurial activity and introduce elements of the "one-window" approach in the activities of public authorities, including through their electronic interconnection to facilitate the exchange of electronic data. The government has implemented some regulatory reform to reduce corruption and increase transparency.

Currency Conversion and Transfer Policies

¶19. Moldova accepted Article VIII of the IMF Charter in 1995, which required liberalization of current foreign exchange operations. There are no restrictions on the conversion or transfer of funds associated with foreign investment in Moldova. After the payment of taxes, foreign investors are permitted to repatriate residual funds. Residual-funds transfers are not subject to any other duties or taxes, and do not require special permission. There are no significant delays in the remittances of investment returns, since domestic commercial banks have accounts in leading multinational banks. Companies are not obliged to sell their hard currency earnings to the government. Foreign investors enjoy the right to repatriate their earnings.

¶20. Generally, there are no difficulties associated with the exchange of foreign or local currency in Moldova. However, shortages of Moldovan currency in the banking system have occurred in the past. While the local currency, the Moldovan Leu (MDL), has been generally stable, its exchange rate proved volatile in the face of external shocks in 2006. The Moldovan Leu strengthened from MDL 12.9 to 11.2 per U.S. dollar over the course of 2007, influenced by the weakness of the U.S. dollar, a massive surge in worker remittances exchanged into MDL, and changes in monetary policies. Seasonal factors play an important role in the Moldovan Leu's exchange rate. The National Bank of Moldova (NBM) responded to the upward pressure on the national currency's exchange rate by somewhat relaxing its tight foreign exchange regulations, focusing on inflation control instead of price controls.

¶21. The U.S. Embassy has no information on complaints from U.S. investors regarding converting or remitting funds associated with investments in Moldova.

Expropriation and Compensation

¶22. The Law on Investment in Entrepreneurship states that investments cannot be subject to expropriation or measures with a similar effect. An investment may be expropriated only if all three of the following conditions are present: the expropriation is done for purposes of public utility, is not discriminatory, and is done with just and preliminary compensation. If a public authority violates an investor's rights, the investor is entitled to reparation of damages. The compensation will be equivalent to the real extent of the damage at the time of occurrence. The public authorities concerned will pay compensation for any damage caused, including any lost profits. Compensation must be paid in the currency in which the original investment was made or any other convertible currency, if the investment was made in a convertible currency. Public authorities may provide investors additional guarantees beyond those described in the law.

¶23. The government has given no evidence of intent to discriminate against U.S. investments, companies, or representatives by expropriation or of intent to expropriate property owned by citizens of other countries. No particular sectors are at greater risk of expropriation or similar actions in Moldova.

¶24. Moldovan law restricts the right to purchase agricultural and forest land to Moldovans. Foreigners may become owners of such land only through inheritance and may only transfer the land to Moldovan citizens. In 2006, Parliament further restricted the right of sale and purchase of agricultural land to the state, Moldovan citizens and legal entities without foreign capital. However, foreigners are permitted to buy all other forms of property in Moldova, including land plots under privatized enterprises and land designated for construction. Moldovan-registered companies with foreign capital are known to own agricultural land, allowed by loopholes in the previous law. There have been some reports that the newer limit on foreign ownership of agricultural land was used in lawsuits as an argument against foreign companies. The only option available to foreigners who desire to obtain agricultural land in Moldova at this time is to rent agricultural land.

¶25. Since 2001, the GOM has cancelled several privatizations, citing the failure of investors to meet investment schedules or irregularities committed during privatization. While the government agreed to repay investors in such disputes, payment of compensations was delayed. In one instance involving a German-registered investor and state-owned airline Air Moldova, the German investor has not been paid to date. The German investor filed suit against the Moldovan government in the European Court of Human Rights. A ruling in the case is still pending.

¶26. Investors should be aware that Moldovan territory east of the Nistru (Dniester) River is under the control of a separatist regime that does not recognize the sovereignty of the legitimate Moldovan authorities in Chisinau. These separatists have declared a self-proclaimed "Dniester Moldovan Republic," commonly known as "Transnistria." The U.S. Embassy regularly warns potential investors who are considering doing business in Transnistria that the Embassy is extremely limited in its ability to provide any assistance there, including consular and commercial services. Also, the GOM has indicated that it will not recognize the validity of contracts for the privatization of firms in Transnistria that are concluded without the approval of the appropriate Moldovan authorities. In March 2006, Ukraine imposed new customs regulations under which Transnistrian companies seeking to engage in cross-border trade had to register in Chisinau. Despite initial protests by the local regime, most of Transnistria's large companies subsequently registered with Moldovan authorities.

¶27. In 2000, a U.S. company claimed that it exported packing equipment and other capital goods to a privatized Transnistrian factory, only to be forced out later by the local factory manager with the collusion of local authorities. The company's representatives reported that they had been harassed by Transnistrian authorities until they decided that the safety of their company's employees could not be guaranteed. The U.S. company

finally pulled out.

Dispute Settlement

¶28. Moldova has a record of disputes over past privatizations involving foreign investors. Communist Party officials, when in opposition prior to 2001, were critical of what they regarded as "sweet-heart deals" in many privatizations. Consequently, once in power, the first government appointed by the Communist Party in 2001 increased its scrutiny of the privatization process, including previously concluded contracts. The GOM cancelled some privatizations because of alleged irregularities in the privatization procedures or the failure of investors to meet an investment timetable. In order to ensure predictability and credibility of the government's privatization policy, the GOM wants to introduce a statute of limitations of three years on the investigation of privatization files. There have been reports from companies that they had become targets of investigations by the Center for Combating Economic Crimes and Corruption (CCECC), while others complained of bureaucratic red tape or arbitrary decisions made by government agencies, police or tax authorities.

¶29. As a result of negotiations connected with Moldova's accession to the WTO, modern commercial legislation was adopted in accordance with WTO rules. The main challenges to the business climate remain the lack of effective and equitable implementation of laws and regulations, and arbitrary, non-transparent decisions by government officials. For example, in recent years the government has taken opaque measures, which violate WTO commitments, to protect domestic producers from foreign competitors in the agricultural sector. The Embassy has also received reports of targeted actions by politically-connected individuals against profitable businesses. These measures include abusive inspections and opaque administrative sanctions. Major foreign investors have also complained about the government's lack of willingness to engage in constructive dialogue on important issues affecting the business community.

¶30. In 2003, the government restructured the judiciary by eliminating the lower-tier of appellate courts (called tribunals) and the Higher Court of Appeals. The judiciary now consists of lower courts (i.e., trial courts), five Courts of Appeals, and the Supreme Court. Moreover, a separate layer of courts covering the judicial settlement of economic/trade-related litigations was created. This quasi-separate court system consists of the District Economic Court as trial court, the Economic Court of Appeals and the Supreme Court, whose jurisdiction implies the adjudication of economic litigations. Courts are nominally independent from government interference. However, the Ministry of Justice controls their administration and budget and reports of interference in law suits by influential figures are commonplace. Moldovan courts suffer from low levels of efficiency, independence and trust by the citizenry. The independent Association of Judges claims that newly appointed judges are loyal to the government and that government officials influence their decisions.

¶31. The GOM accepts binding international arbitration of investment disputes between foreign investors and the state. By law, investment disputes can be solved through Moldovan courts or arbitration. In the event of ad hoc arbitration, the law requires following UNCITRAL rules, arbitration rules of the Paris International Chamber of Commerce (ICC) of January 1, 1998, and other rules, principles and norms agreed upon by the parties.

¶32. Moldova is a signatory to the Convention on the International Center for the Settlement of Investment Disputes (ICSID - Washington Convention) and the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards. Moldova is also a party to the Geneva European Convention on International Commercial Arbitration of April 21, 1961, and the Paris Agreement relating to the application of the European Convention on International Commercial Arbitration of December 17, ¶1962. Moldova has also ratified various trade agreements establishing bilateral investment protection with 35 countries (see paragraph 73), including with the United States. Moldova enjoys normal trade relations with the United States.

Performance Requirements/Incentives

¶33. Any incentives are applied uniformly to both domestic and foreign investors. Unlike the previous law, the new Law on Investment in Entrepreneurship no longer protects new investors from legislative changes for ten years. However, the new law left in effect past privileges and guarantees granted to foreign investors according to the old Law on Foreign Investment. One such privilege provides for exemptions from customs duties on imports until April 23, 2014, if the imports are used to manufacture goods bound for export.

¶34. The current Moldovan Tax Code provides corporate income tax benefits. Companies with investments of more than USD 250,000 in charter capital enjoy a 50% exemption from income tax for five consecutive years. Companies with investments exceeding USD 2 million in charter capital enjoy full exemption from income tax for three consecutive years. Companies are eligible for such exemptions, if at least 80% of their income-tax payments were reinvested in production development or in national or sectoral development programs. For a minimum investment of USD 5 million, a company would be exempt for three years from income-tax payments, if it reinvested locally 50% of what it would otherwise have paid in income tax. A USD 10 million investment would require only 25% reinvestment of income-tax payment for a full 3-year exemption from income tax. Four-year exemptions are available for USD 20 million investments with 10% reinvestment and USD 50 million investment with zero percent reinvestment. Furthermore, upon expiration of these exemptions, eligible companies investing an additional USD 10 million can enjoy tax exemptions for an extra 3-year period. Also, fixed assets contributed in-kind to the charter capital are exempted from the value-added tax and customs duties. Full income-tax exemptions may also be enjoyed by small businesses (for 3 years), software developers (for 5 years), agribusiness (5 years), and scientific research and innovations (unspecified). Commercial banks and microfinance organizations are tax exempt on income derived from loans with maturities over 3 years. Other tax exemptions and deductions are also available according to the Tax Code. The loss carry-forward period was raised from three to five years. Effective January 1, 2008, a zero percent income tax rate on re-invested corporate profits entered into force, part of a GOM initiative of "economic liberalization." However, it remains unclear which tax benefits take precedence, since both the previous scheme and zero percent tax rate are in effect according to the Tax Code.

¶35. No formal requirements exist for investors to purchase from local sources or to export a certain percentage of their output. Informally, however, such requirements, often decided in an arbitrary and non-transparent basis, have been imposed by Moldovan authorities in some industries to serve short-term goals.

¶36. No limitations exist on access to foreign exchange in relation to a company's exports. There are no special requirements that nationals own shares of a company. Both joint ventures and wholly foreign-owned companies may be set up in Moldova. However, individual privatization projects in sectors such as energy, telecommunications, wine, and tobacco may have specific performance requirements.

¶37. While not official policy, in strategic sectors of the economy, such as energy and telecommunications, past administrations preferred to have experienced foreign investors instead of local investors. In all other sectors, foreign and local investors are nominally treated the same.

¶38. The government does not impose "offset" requirements on procurements. Moldovan law allows investments in any area of the couQry in any sector, provided that national security interests, anti-monopoly legislation, environmental protection, public health, and public order are respected.

¶39. Enforcement procedures for performance requirements to enjoy tax incentives are described in the Tax Code and related governmental decisions and Ministry of Finance instructions. Foreign investors are required to disclose the same information as local ones. There are no discriminatory visa, residence, or work-permit requirements

inhibiting foreign investors' mobility in Moldova. However, the government administers a quota system limiting the number of available residence permits. The Embassy receives regular complaints that the issuance process for labor and residence permits is unnecessarily complicated and seemingly arbitrary.

¶40. Moldova has commercial relations with over 100 countries. It has a liberal commercial regime. According to the Tax Code, Moldovan exports are exempt from value-added tax. Although there are no formal import-price controls, some businesses have complained about arbitrary price assessments on imported goods by the Moldovan Customs Service.

Protection of Property Rights

¶41. The legal system protects and facilitates the acquisition and disposition of all property rights. Moldova has adopted laws on property and on mortgages. A system for recording property titles and mortgages is in place; however, the mortgage market is still underdeveloped.

¶42. Moldova adheres to key international agreements on intellectual property rights. Moldova is a signatory to the International Convention on Intellectual Property, signed July 14, 1967, in Stockholm.

¶43. Moldova took measures to implement and enforce the WTO TRIPS agreement before its official accession to the WTO, and adopted local laws to protect intellectual property, patents, copyrights, trademarks and trade secrets. The country has an agency for the protection of copyright, the State Agency for Intellectual Property. Although many basic policies are in place and meet international standards in the field, enforcement is sporadic. Also, Moldova still needs to implement changes to its Criminal Code to strengthen copyright protection.

Transparency of the Regulatory System

¶44. Bureaucratic procedures are not always transparent and red tape often makes processing unnecessarily long, costly and burdensome. Discretionary decisions by state functionaries provide room for corruption. The GOM has taken measures to fight corruption with the implementation of the "guillotine law," which eliminated costly and obsolete regulations and forced the publication of all business-related regulations. All regulations and governmental decisions related to business activity have been published in a special business registry. These steps were intended to raise the awareness of business people about their rights, increase the transparency of business regulations, and help fight corruption. A second "guillotine law," the Law on Basic Principles Regulating Entrepreneurial Activity, was enacted in August 2007, but full implementation was delayed until January 1, 2008. To enhance transparency in the drafting of laws and regulatory acts in the future, the GOM will apply a Regulatory Impact Assessment (RIA) to all draft laws and acts bearing on business activity. As a first step, the GOM vetted 100 laws with the goal of reducing payments to regulatory and control bodies and streamlining business-licensing procedures and economic-financial controls.

¶45. The legal framework for anti-monopoly regulation is the Law on Protection of Competition. The law establishes the fundamental principles, based on EU standards, for regulating the activity of enterprises with a de facto monopoly and for support and development of competition. After several years of delay, the government established a National Competition Agency in 2007. However, the agency's targeted actions against major foreign investors drew accusations of abuse, lack of experience, and flawed anti-trust legislation. Complaints from the business community prompted the GOM to submit to Parliament amendments to the current legislation.

¶46. The government took measures to streamline business registration with the implementation of a "one-window" approach in 2004. Despite the creation of a Licensing Chamber and a significant reduction in the number of regulated business activities requiring licensing, businesses must still provide a great deal of supporting

documentation to receive a license. Regulation of foreign trade transactions, business licensing, and lending remain a problem.

¶47. The government usually publishes significant laws in draft form for public comment. Business fora and trade associations represent other opportunities for comment. The working group of the State Commission for Regulation of Entrepreneurial Activity, which was established as a filter to eliminate excessive business regulations, meets weekly to vet draft governmental regulations dealing with entrepreneurship. The working group's meetings are open to interested businesses. A Foreign Investors Association (FIA) was established in 2004 with the support of OECD. FIA engages in a dialogue with the GOM on topics related to the investment climate and publishes an annual White Book of concerns and recommendations for the improvement of the investment climate. In 2006, the American Chamber of Commerce was registered in Moldova, representing another voice for the business community in Moldova.

¶48. In 2003, the GOM passed new criminal and civil codes and ratified several important international conventions that, in general, create a better environment for the market system.

¶49. Moldova introduced its National Accounting Standards (NAS) based on International Accounting Standards (IAS) in 1998. While this meant greater transparency of financial information and compatibility with IAS, the NAS has not been updated siQe then, leaving it outdated. NAS is not compatible with the International Financial Reporting Standards (IFRS) introduced in 2004. A new law on accounting will take effect on January 1, 2008. Moldova is moving toward adoption of IFRS by 2011. Large and publicly listed companies that meet compliance criteria set out in the law have to apply the IFRS starting January 1, 2009.

Efficient Capital Markets and Portfolio Investment

¶50. Laws, governmental decisions, securities regulations, National Bank regulations, and Stock Exchange regulations provide the framework for capital markets and portfolio investment in Moldova. The GOM began regulatory reform in this area in 2007 with a view to spurring the development of the weak non-banking financial market. In particular, only two bodies - the National Bank and the National Commission on the Financial Market - will regulate financial and capital markets starting in 2008. The Stock Exchange will switch from a non-profit to for-profit status.

¶51. Credit is allocated on market terms with banks being the only reliable source of business financing. The GOM regulates credit policy via credits from the National Bank, auctions through commercial banks, compulsory reserves, credits secured through collateral, open market operations, and T-bill auctions on the primary market. Foreign investors may obtain credit on the local market. However, funds from local commercial banks are lent at prohibitively high interest rates and mostly on short-term, which reflect the country's perceived high economic risk and inflation. Also, large deals rarely can be financed through a single bank and require a bank consortium. Recent years have seen a growth in leasing and micro-financing. In 2007, Raiffeisen Leasing was the first international leasing company to open a representative office in Moldova.

¶52. The private sector's access to credit instruments is difficult because of the insufficiency of long-term funding. Financing through local private investment funds is virtually non-existent. A few U.S. investment funds have been active on the Moldovan market, notably NCH Advisors, Western NIS Enterprise Fund and Emerging Europe Growth Fund, the latter two managed by Horizon Capital equity fund managers.

¶53. In 2007, a "mega-regulator," the National Commission on the Financial Market (NCFM), replaced the National Securities Commission. The NCFM supervises the securities market, insurance sector and non-bank financing. The NCFM is operationally independent. Once it has reached full operating capacity, starting October 1, 2008, it will acquire the right to issue and withdraw licenses for all non-bank financial sectors it supervises. The Commission adopted a Corporate Governance Code and passed new regulations intended to simplify the issuance of corporate

securities and increase the transparency of transactions at the Moldovan Stock Exchange. The GOM is interested in transforming Moldova into a regional hub for capital market services by becoming a center of distribution of international venture capital. The GOM wants to attract investment fund management companies to relocate their regional headquarters to Moldova.

¶54. Moldovan banks are the main source of business financing, with non-bank financing, albeit growing, poorly developed. The banking system has two levels: the National Bank of Moldova (NBM) and 15 commercial banks. The NBM supervises the commercial banks and reports to the Parliament. The government holds a controlling stake in one bank, Banca de Economii (Savings Bank). As of October 31, 2007, foreign investors' share in Moldovan banks' capital was more than 65 percent.

¶55. As of September 2007, total bank assets were USD 2.61 billion (equal to 77% of GDP). Moldova's five largest commercial banks account for 66 percent of the total bank assets, as follows (as of September 30, 2007):

Moldova Agroindbank: MDL 6,308 million (USD 548 million) in assets;

Banca de Economii: MDL 4,086 million (USD 355 million);

Victoriabank: MDL 3,646 million (USD 316 million);

Moldindconbank: MDL 3,377 million (USD 293 million);

Mobiasbanca: MDL 2,418 million (USD 210 million).

¶56. Unofficial "cross-shareholding" and "stable shareholders" agreements are used mostly by investment funds to restrict other companies' participation, not specifically aimed against foreign investment.

¶57. Measures to prevent hostile takeovers are typically designed to protect against all potential takeovers, not just foreign takeovers.

¶58. No laws or regulations authorize private firms to adopt articles of incorporation or association which limit or prohibit foreign investment.

¶59. The U.S. Embassy has no reports about private sector or government efforts to restrict foreign participation in industry standards-setting consortia or organizations. However, private enterprises' internal regulations may include such restrictions.

Political Violence

¶60. The U.S. Embassy has received no reports over the past ten years involving politically motivated damage to projects or installations in Moldova. Such civil disturbances are unlikely in the near future.

¶61. Separatists control the Transnistrian region of Moldova along the eastern border with Ukraine. Although a brief armed conflict took place in 1991-1992, the cease-fire of July 1992 has generally been observed. Local authorities in Transnistria maintain a separate monetary unit, the Transnistrian ruble (current market exchange rate equals about 8.5 rubles per one USD), and a separate customs system. Despite the political separation, economic cooperation takes place in various sectors. In recent years, the GOM has implemented measures requiring businesses in Transnistria to register with Moldovan authorities (see paragraph 26). A settlement is still being negotiated with the Organization for Security and Cooperation in Europe (OSCE), Russia, and Ukraine acting as guarantors/mediators and the U.S. and EU as observers. The settlement talks have been stalled since 2006. In 2007, the Moldovan President announced several confidence-building initiatives in a bid to resume negotiations.

Corruption

¶62. Moldova is making efforts to adopt European and broader international standards to combat corruption and organized crime. In 2007, Moldova ratified the United Nations Convention against Corruption, subsequently adopting amendments to its domestic anti-corruption legislation. In this respect, the Center for Combating Economic Crimes and Corruption has drafted a new Law on Preventing and Combating Corruption. The GOM has also developed several companion draft laws designed to address current legislative gaps. A Code of Conduct for Public Servants is also under development.

¶63. Moldova's Criminal Code (effective June 12, 2003) has also contributed to the effort to combat corruption. It includes articles on public and private sector corruption, combating economic crimes, criminal responsibility of public officials, active and passive corruption, and trade of influence. These additions put the legislation more in line with international anti-bribery standards by criminalizing the act of offering a bribe. Under this definition, the act of promising, offering or giving a bribe to a "person of responsibility," i.e., a public official, is a crime.

¶64. Both offering and accepting a bribe are criminal acts. A bribe - whether to a foreign official or not - is a criminal act and is not deductible for tax purposes.

¶65. The penalties for offering and accepting a bribe are included in two articles of the Criminal Code. Offering a bribe is punishable by up to three years imprisonment or by a fine of 10,000-20,000 lei (approximately USD 716-1,432); if repeated, the penalty is up to five years imprisonment or a fine of 20,000-40,000 lei (USD 1,432-2,865); and offering a large bribe for the benefit of a criminal organization is punishable by 5-10 years imprisonment.

¶66. Accepting a bribe is punishable by up to five years imprisonment or by a fine of 10,000-30,000 lei (USD 716-2,148); if the offense is repeated, the penalty is 5-10 years imprisonment or a fine of 20,000-60,000 lei (USD 1,432-4,297); and for accepting a large bribe in the interest of a criminal organization, the punishment is 7-15 years imprisonment. The result of these penalties is that many corruption crimes are classified as "less serious," and investigative agencies are therefore restricted from utilizing undercover techniques.

¶67. Several international and local organizations in Moldova work on combating corruption. In December 2006, the Republic of Moldova and the United States signed a USD 24.7 million Millennium Challenge Corporation (MCC) Threshold Country Program (TCP) agreement aimed at reducing corruption. Moldova's current MCC TCP program focuses on persistent corruption in the judiciary, the health care system, and the tax, customs and police agencies.

¶68. In 2005, the Council of Europe's Program against Corruption and Organized Crime (PACO) launched a one-year regional project on "support to the National Anti-Corruption Strategy of Moldova." An agreement for a follow-up project - the Project against Corruption, Money Laundering, and Terrorism Financing in the Republic of Moldova (MOLICO) - was signed in July 2006 between the Council of Europe, the European Commission, and the Swedish International Development Cooperation Agency. The MOLICO project is aimed at ensuring the implementation of Moldova's anti-corruption strategy on the basis of annual action plans and strengthening the anti-money laundering/counter-terrorist financing system of Moldova.

¶69. Moldova is not a signatory of the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery. However, Moldova is part of two regional anti-corruption initiatives: the Stability Pact Anti-Corruption Initiative for South East Europe (SPAI) and the Group of States against Corruption (GRECO) of the Council of Europe. Moldova cooperates closely with the OECD through SPAI, and with GRECO, especially on country evaluations. In 1999, Moldova signed the Council of Europe's Criminal Law Convention on Corruption and Civil Law Convention on Corruption. Moldova ratified both conventions in 2003.

¶70. The Embassy has received reports that corruption and bribery are serious problems for foreign investors. For example, when a foreign

investor discovered that he had under-paid his taxes and wished to remedy the situation, the tax inspector assigned to the company attempted to extort money. However, when the investor informed the tax administration of his error, the tax service lauded his self-reporting and negotiated a reduced payment. In other situations, however, a foreign investor may be faced with the choice of either paying a bribe or leaving. The Embassy has received reports of "informal" hostile takeovers of profitable businesses. In these cases, business owners are approached by politically-connected individuals who wish to acquire part of the business. If business owners refuse, they are soon forced to close via non-transparent measures.

¶71. Based on Transparency International reporting and an assessment of closed court cases, corruption is most pervasive in the following areas: law enforcement, customs, taxation and regulatory system; judicial system; health care system; educational system, government procurement and procurement in general; agricultural subsidies and social assistance.

¶72. Moldova's ranking in Transparency International's Corruption Perception Index steadily worsened from 2001, when it was ranked 63 out of 91 countries, to 2004, when it ranked 116 out of 145 countries. In 2006, Moldova ranked 81 out of 163 countries surveyed, but slipped in 2007, dropping again to 113 out of 180 countries. Moldova's score placed the country behind Albania, Bosnia and Herzegovina, Croatia, Montenegro, Macedonia, and Serbia. According to surveys conducted in 2006, about one third of Moldovan firms admit that they frequently pay bribes.

Bilateral Investment Agreements

¶73. Moldova has signed bilateral investment protection and promotion agreements with 35 countries, including Albania, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, China, Croatia, the Czech Republic, Finland, France, Georgia, Germany, Greece, Hungary, Israel, Italy, Kuwait, Kyrgyzstan, Latvia, Lithuania, the Netherlands, Poland, Romania, Russia, Slovenia, Spain, Switzerland, Tajikistan, Turkey, Ukraine, the United Kingdom, the United States, and Uzbekistan.

¶74. Moldova has a bilateral treaty with the United States on the Encouragement and Reciprocal Protection of Investment, but does not have a bilateral taxation treaty with the United States.

OPIC and Other Investment Insurance Programs

¶75. The Overseas Private Investment Corporation (OPIC) became active in Moldova in September 1997, providing political-risk insurance to an American company investing in an agribusiness. In 1992, Moldovan and U.S. governments signed an investment incentive agreement that exempts OPIC from Moldovan taxes on loan interests and fees. In 2002, OPIC provided nearly USD 1 million in political-risk insurance to two U.S. companies operating in the telecommunications and agricultural sectors. In 2004, OPIC extended a USD 150,000 loan to a New York-based small telecommunications business. In 2005, OPIC closed on a USD 3 million loan to Procredit, a microfinance institution providing loans to small businesses in Moldova. In 2007, OPIC committed USD 10 million in financing to a U.S. company to support the expansion of its agribusiness operations.

¶76. The U.S. Export-Import Bank (Ex-Im) provides U.S. companies investing in Moldova short- and medium-term financing in the private sector under its insurance, loan and guarantee programs. In 2000, the Ex-Im Bank and Moldova signed a Framework Guarantee Agreement setting the terms for the GOM to issue sovereign guarantees to facilitate Ex-Im Bank financing of U.S. exports to Moldova. Also in 2000, the Ex-Im Bank and Moldova signed a Project Incentive Agreement that enabled the Bank to consider financing of U.S. exports for credit-worthy private sector projects in Moldova on a non-sovereign risk basis, but which required host-government support in project-related activities such as permit and license approvals. Under the agreement, repayment of Ex-Im Bank financing is based on the capture of financed projects' revenue streams in special escrow accounts held in banks approved by the Ex-Im Bank.

¶77. In 2002, the Ex-Im Bank signed a memorandum of cooperation with the Black Sea Trade and Development Bank. Under the memorandum, the Ex-Im Bank's financing products can be used to support exports of U.S. goods and services to any country located in the Black Sea region, including Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russia, Turkey and Ukraine. The agreement enables the Black Sea Trade Development Bank to act as a guarantor of specific transactions and also provides for parallel financing arrangements.

¶78. Moldova is eligible for U.S. Trade and Development Agency (USTDA) funding of feasibility studies, orientation visits, specialized training grants, business workshops and other forms of technical assistance. USTDA considers funding for a wide range of sectors with export potential for U.S. companies. In 2003, USTDA approved funding for a study on upgrading the telecom system for the Moldovan Customs Service.

¶79. Institutions such as the European Bank for Reconstruction and Development and the World Bank are very active in Moldova in both the private and public sectors, offering various financial tools for both insurance and credit. Moldova is a member of the Multilateral Investment Guarantee Agency. Moldova is also eligible for project and trade financing from the Black Sea Trade and Development Bank.

Labor

¶80. Skilled labor is readily available in Moldova, which has an adult literacy rate of 99.1 percent. The labor force includes numerous workers with specialized and technical skills. Labor migration has led to some shortages of workers in the agricultural and construction sectors. The Moldovan Constitution guarantees all employees the right to establish or join a trade union. Trade unions have influence in the large and mostly state-owned enterprises and historically have been strong in negotiations on labor relations, such as minimum wage and basic worker rights. Unions are less active in small private companies. Moldova is a signatory to numerous conventions on the protection of workers' rights.

¶81. The Moldovan General Federation of Trade Unions has been a member of the ILO since 1992, and is also affiliated with the International Confederation of Free Unions in Brussels since 1997. After the Federation split into two separate unions in 2000, the two merged in 2007, forming the National Trade Union Confederation.

Foreign Trade Zones/Free Ports

¶82. One of the GOM's stated economic policies is the creation and development of free economic zones (FEZ). At present, six FEZs and one international free port - Giurgiulesti - are registered in Moldova. According to Moldovan law, export-oriented production is the main goal of such zones. FEZ commercial residents are allowed to sell no more than 30% of their products in Moldova. FEZ activity is regulated by the Law on Free Economic Zones (2001). Foreigners have the same investment opportunities as local entities. FEZ commercial entities enjoy the following advantages: 25% exemption from income tax; 50% exemption from tax on income from exports; for investments of more than USD 1 million, a three-year exemption from tax on income resulting from exports, and for investments of more than USD 5 million, a five-year exemption from tax on income from exports; zero value-added tax; exemption from excises; and protection of residents against any changes in the law for 10 years. The GOM plans to establish three industrial parks in 2008. Businesses operating in industrial parks do not enjoy special fiscal treatment, but have access to ready-to-use production facilities and offices.

¶83. Similar to the FEZs, the Giurgiulesti Free International Port was established in 2005 for 25 years. Commercial residents of the port enjoy the following advantages: 25% exemption from income tax for the first 10 years following the first year when taxable income was reported; 50% exemption from tax on income for the remaining

years; exemption from value-added tax and excises on imports and exports outside Moldova's customs territory; zero valued-added tax on imports from Moldova; and protection of commercial residents against any changes in the law until February 17, 2030.

Foreign Direct Investment Statistics

¶84. As of January 1, 2007, the total stock of foreign direct investment (FDI) inflows in Moldova since independence amounted to USD 1,300.2 million, according to the National Bank of Moldova (NBM).

¶85. According to NBM data, annual FDI inflows (in million USD) to Moldova have increased steadily over the past several years: 241.02 (2004); 262.84 (2005); 368.12 (2006); and 200.46 (Jan-Jun 2007).

¶86. FDI by country in 2006, according to NBM data and based on charter capital (as a percentage of total charter capital) was as follows:

Italy	34.2%
Russia	9.1%
Turkey	6.0%
Romania	6.0%
Ukraine	3.8%
Germany	3.8%
France	3.3%
Cyprus	2.3%
Netherlands	2.1%
Other countries	29.4%

¶87. According to the NBM, the stock of FDI inflows (in million USD) by country of origin for the seven largest investing countries for the period 1992 to 2006 was:

¶1. Russia	161.0
¶2. Spain	81.5
¶3. United States	80.3
¶4. Netherlands	62.3
¶5. Italy	50.3
¶6. Germany	36.6
¶7. Romania	35.5

¶88. Based on figures from the National Bureau of Statistics, FDI stock since 1992 by sectors was (as a percentage of total FDI):

--Electricity, gas and water supply:	26.6%
--Food processing:	26.1%
--Wholesale, retail & repair services:	18.8%
--Financial activities:	14.5%
--Transportation and communications:	5.3%
--Real estate transactions:	4.8%
--Other activities:	3.9%

¶89. According to NBM data, at the end of 2006, Moldova's direct investment abroad since independence amounted to USD 29.15 million.

¶90. In 2006, FDI inflows were 11.0% of annual GDP (USD 3.356 billion).

¶91. Major U.S. investors or representatives of U.S. companies in Moldova include:

- NCH Group of Investment Funds: real estate and financing companies;
- Horizon Capital: equity investment fund managing the investments of Western NIS Enterprise Fund (which is phasing out its local activity) and the recently created Emerging Europe Growth Fund with holdings in banking, food processing and glass manufacturing;
- McDonald's: fast food;
- Coca-Cola: soft drinks;
- Foodpro International: food processing;
- Development Group USA: food processing, wine and media;
- Lion Gri: wine;
- Transoil Ltd.: farming, agribusiness and grains trading;
- Mary Kay: perfumes and cosmetics;
- Avon: perfumes and cosmetics.